



06-28-07

PATENT *FEW*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97-022-B2-CO)

Pre Application of:

Dunlay, et al.

Serial No: 10/686,161

Filed: October 15, 2003

Title: A System for Cell-Based Screening

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)
)
) Examiner: Pablo S. Whaley
)
) Group Art Unit: 1631
)
) Confirmation No.: 6805
)

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

TRANSMITTAL LETTER

With respect to the above identified application:

1. We are transmitting herewith the attached:

- ☒ Transmittal Letter (in dup.) (1 sheet);
- ☒ Terminal Disclaimer (1 sheet);
- ☒ Supplemental Response to Office Action mailed March 16, 2007 (1 sheet);
- ☒ Return Postcard.

2. With respect to fees:

A check for **\$130.00** for the Terminal Disclaimer fee is enclosed.3. Please charge any additional fees or credit overpayment to Deposit Account No. **13-2490**. A duplicate copy of this sheet is enclosed.

4. **CERTIFICATE OF MAILING UNDER 37 CFR § 1.10:** The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein-above, are being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee" in an envelope addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on this 27th day of June, 2007. Express Mail No. **EV839407171US**.

Respectfully Submitted,
McDonnell Boehnen Hulbert & Berghoff LLP

By

David S. Harper
Reg. No. 42,636



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-B2-CO)**

In the Application of:)	
Dunlay, et al.)	Examiner: Pablo S. Whaley
)	
Serial No. 10/686,161)	
)	Group Art Unit: 1631
Filing Date: October 15, 2003)	
)	Confirmation No.: 6805
For: A System for Cell-Based Screening)	

Mail Stop: **Amendment**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

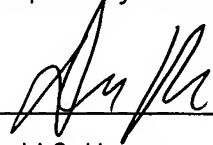
SUPPLEMENTAL RESPONSE TO OFFICE ACTION MAILED MARCH 16, 2007

Dear Sir,

Please consider the following Terminal Disclaimer which was inadvertently omitted from the Office Action Response filed June 26, 2007. The Applicants believes a fee of \$130.00 is due in connection with this filing. However, if additional fees are due the Commissioner is authorized to charge our deposit account number 13-1249.

Date: June 27, 2007

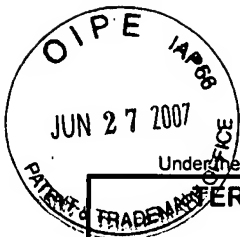
Respectfully submitted,



David S. Harper
Registration No. 42,636

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Facsimile: 312-913-0002

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
Chicago, IL 60606



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
97-022-B2CO

In re Application of: R. Terry Dunaly et al.

Application No.: 10/686,161

Filed: October 15, 2003

For: A System for Cell-Based Screening

The owner*, Cellomics, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 6,671,624 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 42,636

06/29/2007 ENFILE1 00000010 10666161

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130.00 OP

Signature

July 27, 2007

Date

David S. Harper

Typed or printed name

312-913-0001

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

06/28/2007 ENFILE1 00000033 10666161

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130.00 OP

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

Adjustment date: 06/29/2007 ENFILE1

06/29/2007 ENFILE1 00000033 10666161

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.